

Palmetto City Commission
February 5, 2007

Elected Officials Present:

Larry Bustle, Mayor
Eric Ball, Vice Mayor
Tamara Cornwell, Commissioner
Mary Lancaster, Commissioner
Tambra Varnadore, Commissioner
Brian Williams, Commissioner

Staff and Others Present:

James R. Freeman, City Clerk
Chris Lukowiak, Public Works Director
Chief Garry Lowe
Tanya Lukowiak, CRA Executive Director
Michele Hall, City Attorney
Frank Woodard, Deputy Director Operations
Deanna Roberts, Administrative Assistant

Mayor Bustle called the meeting to order at 7:02 pm. A moment of silence was observed for our military personnel serving overseas, followed by the Pledge of Allegiance.

All persons wishing to address Commission during the meeting were sworn in.

PUBLIC COMMENT

John and Mary Lou Smart, 2215 7th Street West, Palmetto, addressed Commission regarding their dock permit. A copy of the statement Mrs. Smart read to Commission is attached to these minutes as part of the permanent record. The Smarts are seeking permission to continue construction on their dock. They began the application process three years ago. Construction began in September with all required permits in place before a moratorium on dock building was passed by the City Commission. Leo Mills Surveying Company staked the dock line on September 26, 2006. According to code as read by Attorney Michele Hall, just staking the dock does not constitute construction.

Gardner Sharpe, a neighbor at 2216 7th Street West, Palmetto, told Commission that the Smart's proposed 465' boat dock will impede his view and decrease his property value. He serves on a committee appointed by Mayor Bustle and informed Commission that the committee is working hard to help draft a dock ordinance that will include regulations that will be fair to all in the community. The committee is two weeks away from presenting its suggestions to Commission. Mr. Lukowiak interjected he thought it would probably be at the first meeting in March.

Sharon Green, Green Marine Construction, who is building the Smart's dock, did all the DEP permitting and all their requirements were met. The dock has to go out to 4' of water in order to build a boat lift due to protective laws in place for manatees and the grass flats. The permit was issued, Leo Mills was paid to place the stakes and she thinks this dock should be grandfathered in. She provided Attorney Hall with an aerial view of the proposed dock site and will send a copy of the DEP permit.

In answer to Mrs. Varnadore's question about the status of the dock, Mr. Lukowiak said it is on hold because the City is under a moratorium right now.

Commissioner Williams said he has a problem with the fact the City did issue a permit and then pulled it. He is concerned about the dock going in the sea grass and the fact that the City was not notified and given an opportunity to comment. Mrs. Green reiterated that DEP has already permitted the dock. The three-year delay was the manatee protection issue DEP was studying. The Smart's have been paying a lease fee to

lease the bottom of the river where the dock is going to go for the past two to three years. Attorney Hall said she was not aware that they had entered into a Sovereign Submerged Land Lease.

Commissioner Varnadore opined that Commission needs more information from staff and time to review the issue. It was agreed the item would be on the February 26, 2007, agenda. Commissioner Williams said a decision will be rendered at that meeting. Mr. Lukowiak said he will collect additional data and bring a recommendation to the meeting.

Mayor Bustle introduced Manatee County Commissioner Carol Whitmore and Bradenton Beach Mayor John Chappie who were in attendance at the meeting.

Mayor Bustle recognized Public Works employee Hank Adams for his thirty-two years of service to the City of Palmetto. He will retire on February 6, 2007.

1. AGENDA APPROVAL

MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion passed unanimously to approve the February 5, 2007, 7:00 PM agenda with the addition of the 2007 Capital Improvement Projects.

2. CONSENT AGENDA

MOTION: Commissioner Lancaster moved, Commissioner Ball seconded and motion passed unanimously to approve the February 5, 2007, Consent Agenda.

2A. 2007 CAPITAL IMPROVEMENT PROJECTS

MOTION: Commissioner Ball moved, Commissioner Lancaster seconded and the motion passed 3-2 to approve the 2007 CIP as presented at the 4:00 p.m. Workshop. The dissenting votes were cast by Commissioner Varnadore and Commissioner Williams.

3. RESOLUTION NO. 07-06 (T. Lukowiak – Carried forward from 4:00 meeting)

A RESOLUTION OF THE CITY OF PALMETTO, FLORIDA, STATING THE CITY'S INTENT TO MANAGE GROWTH AND DEVELOPMENT THROUGH ADOPTION AND IMPLEMENTATION OF RECOMMENDATIONS SET FORTH IN THE COUNTY-WIDE "CHARACTER AND COMPATABILITY STUDY"; PROVIDING FOR AMENDMENT OF THE CITY'S COMPREHENSIVE PLAN AND ZONING CODE; PROVIDING FOR NEIGHBORHOOD-BASED PLANNING; PROVIDING FOR INTERGOVERNMENTAL COOPERATION; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Commissioner Ball moved, Commissioner Cornwell seconded and motion passed unanimously to adopt Resolution No. 07-06.

4. RESOLUTION NO. 07-07 (T. Lukowiak)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 06-33, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2006-2007, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion passed unanimously to adopt Resolution No. 07-07.

5. TBRPC COMMUNITY SPONSORSHIP (Mayor Bustle)

Reality Check Tampa Bay is a one-day planning exercise to discuss, analyze and develop alternative growth scenarios for the Tampa Bay region through 2050.

MOTION: Commissioner Williams moved, Commissioner Varnadore seconded and motion passed unanimously to approve a \$1,000 sponsorship for Reality Check Tampa Bay and designate the Mayor and one additional individual as City attendees.

6. CONTRACT APPROVAL: IMAGE ONE (C. Lukowiak)

Staff proposes entering into a piggy back contract with Image One to perform scanning services for the Building Department.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion passed unanimously to approve and authorize the Mayor to execute the Image One Agreement for Scanning and Records Management Services based on the unit price competitively bid and awarded to the Martin County School District and the City of Cape Coral, in an amount not to exceed \$35,500.

Discussion: In answer to Mrs. Lancaster's question about funding, Mr. Lukowiak said this will be paid for out of the Building Department reserves.

7. APPROVAL: FPL EASEMENT (C. Lukowiak)

FPL is requesting a 5' easement along north side of Haben Blvd. to install underground utility lines.

MOTION: Commissioner Williams moved, Commissioner Lancaster seconded and the motion passed unanimously to approve a 5' utility easement to Florida Power & Light along the north side of Haben Blvd for installation of underground utilities, funded by CRA in an amount not to exceed \$35,297.

Discussion: Commissioner Varnadore asked how long the project would take as she had concerns about traffic. Don Sayre of FPL said there will be very little disruption on Haben and FPL should finish in a maximum of two weeks.

8. APPROVAL: BILL LEE'S PROFESSIONAL AUTOMOTIVE SERVICES, INC. CONTRACT EXTENSION (C. Lowe)

Staff proposes a one-year extension of the Police Department's fleet maintenance contract.

MOTION: Commissioner Cornwell moved, Commissioner Ball seconded and motion passed unanimously to approve and authorize the Mayor to execute the Agreement for Automobile Maintenance and Repair Services with Bill Lee's Professional Automotive Services, Inc. for one additional year, not to exceed \$55,000.

Discussion: The contract expired in October of 2006. The contract will become effective as soon as it is executed and will terminate September 30, 2007. The next one-year extension will come back to commission for approval at that time.

9. 1st READING & ADVERTISING APPROVAL ORDINANCE NO. 07-914 (C. Lukowiak)

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AMENDING SECTIONS 7-220 AND 7-221 OF THE CODE OF ORDINANCES, PERTAINING TO LANDSCAPE SPECIFICATIONS AND PLANS; PROHIBITING REMOVAL OF APPROVED PLANTS AS PART OF MAINTAINING APPROVED LANDSCAPING; PROVIDING FOR SPECIFIC PLANT TYPES IN LANDSCAPING PLANS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and the motion passed unanimously to approve Ordinance No. 07-914 for advertising and schedule a public hearing February 26, 2007.

10. 1st READING & ADVERTISING APPROVAL ORDINANCE NO. 07-915 (J. Freeman)

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR A REVISION TO THE REGULATORY LANGUAGE PROHIBITING THE DISTRIBUTION OF HANDBILLS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Lancaster moved, Commissioner Cornwell seconded and motion passed unanimously to approve Ordinance No. 07-915 for advertising and schedule a public hearing February 26, 2007.

11. 1st READING & ADVERTISING APPROVAL ORDINANCE NO. 07-916 (J. Freeman)

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR CITY LIEN PRIORITY; PROVIDING FOR THE DURATION OF SUCH LIEN; PROVIDING FOR THE LIMITED PURPOSE OF CODE REFERENCES IN SUCH LIEN; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Ball seconded and motion passed unanimously to approve Ordinance No. 07-916 for advertising and schedule a public hearing February 26, 2007.

12. 1st READING & ADVERTISING APPROVAL ORDINANCE NO. 07-917 (T. Lukowiak)

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR CHANGES TO THE COMMUNITY REDEVELOPMENT PROVISIONS OF THE CITY CODE; AMENDING THOSE PROVISIONS TO CONFORM TO STATE LAW; REMOVING THE AUTHORITY OF THE CRA TO USE EMINENT DOMAIN; AMENDING THE DETERMINATION OF THE TAX INCREMENT DEFINITION TO CONFORM TO STATE LAW; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion passed unanimously to approve Ordinance No. 07-917 for advertising and schedule a public hearing February 26, 2007.

13. DEPARTMENT HEADS' COMMENTS

Tanya Lukowiak-CRA Executive Director

She said she will provide Commission with copies of the design guidelines overview for their feedback to the Planning and Zoning Board.

Chris Lukowiak-Public Works Director

Asked Commission's permission to send a letter requested by SWFWMD, acknowledging that the City of Palmetto, as the owner of Lincoln Park, authorizes the County to pull a permit as the project manager for improvements they will make to the park using CDBG funding. He will email a copy of the proposed letter to Commissioners.

Mr. Lukowiak also asked permission to send a letter to Scott McGookey of SWFWMD to participate in a cooperative funding request for a feasibility study for the Bradenton-Palmetto Reuse Interconnection Project. The City of Palmetto would provide 33% of the funding for the project and the City of Bradenton and SWFWMD would each provide 33%. The study will cost about \$60,000, so the City's portion would be approximately \$20,000. The City of Bradenton would act as the project manager. Mr. Lukowiak said there is funding on the 2007 CIP for the Regional Reuse study. The study would look at the cost of getting a line under the river, how much water can be transmitted back and forth etc. Before the City goes after the big funding for installing a pumping system and exchanging reuse with the City of Bradenton, a feasibility study is needed.

Mr. Williams said he was under the impression that the City would not be required to spend any money on the system and that Palmetto's reuse system would be installed before the City spends money anyplace else. Mayor Bustle said this in no way competes with the Palmetto reuse system which will proceed at the pace it has been.

Commissioner Cornwell expressed concern about going into a partnership that stipulates it must be with another entity. At one point SWFWMD took away a grant they had already given the City because the City would not pay to link up to Manatee County. If we go into the agreement, what benefit does that give the City? Does it mean our ASR can be a larger unit or that SWFWMD will give more money towards the ASR?

Mayor Bustle commented that the ASR project would not be underway today if the City was not cooperating with Bradenton and Manatee County. The issue before the Commission tonight has nothing to do with exchanging water, but only looks at the feasibility. Mr. Lukowiak said the City of Bradenton has nearly reached its limit in dumping into the river. The City of Palmetto because of its reuse lines can get more out to the citizens. During the dry months, the City can take water from Bradenton. The ASR may be up to ten years out, whereas this system could be operational within two years.

Commissioner Williams said he is not afraid of spending the money on this project, but he thinks it should have come to a Workshop first. Mr. Lukowiak said it was discussed at a Workshop as part of his CIP funding, but the reason he brought it up at this meeting was because the sequence of events had changed. Originally, Bradenton and the County were going to enter an agreement and the following year come to Palmetto, but after talking to SWFWMD, Bradenton decided it would be easier to get the funding if both cities went forward with the feasibility study first.

Commissioner Williams said he would like a copy of the tape of the Workshop meeting because he recalled that the City did not want to be part of this but only to continue the discussions and that no money would be spent. Now, Mr. Lukowiak is looking for money. Mr. Lukowiak said if the County had been a party to the feasibility study first, there would be no need for the City of Palmetto to fund a study. But, at SWFWMD's request, the City of Palmetto got moved up to Phase I. He feels it's a feather in the City's cap that SWFWMD prompted the City of Bradenton to partner with the City of Palmetto first before the county.

He is asking Commission's request to send the letter. Commissioner Varnadore asked if that would commit to the project and he answered yes. When the Scope of Work for the study is available from the City of Bradenton he will bring it to Commission. Mrs. Varnadore pointed out that the CIP only had \$12,500 budgeted for the study and he needs \$20,000. She commented that if money is not available for reuse to 8th and 9th Streets, she is not interested in a study.

Mr. Williams again stated he did not like the way this was presented. He does not like things presented at the last minute. A phone call in advance with an explanation would have been helpful. The Mayor said he only received this item at 1:45 p.m. this afternoon.

The Mayor commented that this is a source of free reuse water from the City of Bradenton that would otherwise be dumped into the Manatee River.

In answer to Mrs. Varnadore's concern about the cost of the system, Mayor Bustle said the City is already installing distribution lines in the City, already funded, and there is the potential to use an existing water line under the river between the two cities that the county will upgrade.

Mr. Lukowiak said this is time sensitive because of the grant funding, and he only learned about it late Friday.

Commissioner Williams said he does feel it's important, and Mr. Lukowiak will have to come up with the money for the study.

Commissioner Ball said this should have been presented with the 2007 CIP. It's not the \$12,500 on the CIP but \$20,000. Mr. Lukowiak said the CIP always contains best "guesstimates." Mr. Lukowiak said he will just have to move funds around.

Mr. Lukowiak said the money projected for this project could benefit the City because an ASR can be as much as 9 years out and ASR's are "touch and go" right now due to legislation because there are arsenic problems with them. Potentially, the plug could be pulled on ASR's. The money for the project being considered tonight is already earmarked in future years. Besides the benefit of partnering with the City of Bradenton and the County, regional reuse is a more stable, direct possibility. It will take a twenty-year agreement and some funding to upgrade the line and a pumping station. In answer to Commissioner Williams question about final total funding for the project, Mr. Lukowiak said the study will provide all those answers.

Mr. Lukowiak reported that on a dry day, the City is a million gallons short on reuse, so in a three month dry season that really adds up.

The Mayor said that SWFWMD was getting ready to disapprove the whole project because the partnership between the County and the City of Bradenton was not where they wanted it to be. Then Mr. Lukowiak and John Cumming at the City of Bradenton advised SWFWMD that the two cities could put this together. In answer to Commissioner Williams concern, the Mayor reiterated that the City of Palmetto does not have to take water from Bradenton if we don't need it. The City will be in charge of its own system.

Commissioner Lancaster commented that because of what she heard about potential problems with the ASR, and the fact that it might not even happen, she feels this may help the City eliminate dumping into the bay which can cost a lot in fines, and if the City needs water it can get it from Bradenton.

Commissioner Ball said he is in favor of moving forward so that the City has an alternative to the ASR.

Mr. Williams asked Mr. Lukowiak to call him the next day and identify the funding.

There was general consensus to give Mr. Lukowiak permission to send the letter. Mrs. Varnadore dissented.

Jim Freeman-City Clerk

Reported that the Workshop meeting on February 26, 2007, is cancelled as that is the first day of the Olympia Theater trial. The 7:00 p.m. meeting on February 26 will proceed as scheduled. March 5th and March 19th will be regular meetings and staff is proposing a special Workshop on March 12th; time certain 4:00 – 6:00 p.m.

Chief Garry Lowe

There were three assessors at the Police Department for three days this past week performing a mock assessment of standards and written directives. Everything looks good, and the Police Department should be reaccredited in July.

Michele Hall – City Attorney

With the approval of Mayor and Commission she would like to bring forward two contracts at the second February meeting. One covers City of Palmetto files that Dye, Deitrich has. There are sixty boxes that the firm will let the city take with an agreement that, should the firm need them, they can have access to them.

The other agreement is with Dye, Deitrich in the form of a letter specifying that Attorney Dick Groff can work for the City on an as-needed basis at the rate of \$200 per hour, and that other attorneys can be on retainer to be used in their areas of expertise at their current hourly rate. No deposit is required, they will just be paid when they do work and the agreement, in answer to Mrs. Cornwell's question, does not prohibit the City from retaining other law firms.

Informed Commission she will be out of town February 15-16, 2007 for a seminar. This is the last meeting before the Order of Taking Hearing and she will meet with each Commissioner individually before the February 26th hearing to answer questions and clarify the City's position.

14. MAYOR'S REPORT

Informed Commission that he, Jim Freeman and Jim Free had met with Jim Wade regarding the Gold Dome building. One of the possible agreements discussed was a deferred purchase wherein bonds would be issued to Mr. Wade and the purchase would be deferred to subsequent years. Reported that Mr. Wade is not

in any great hurry due to the lease agreement which he has with the Sheriff's Office which has two and a half years remaining on it. He will send more detailed information to Commission.

Reported he is planning to coordinate a reception/meeting with the new County Administrator, Ed Hunzeker, his two deputy administrators, Commission and Department Heads. The meeting will probably take place on the 15th floor of Bel Mare and will potentially be in lieu of a Workshop. Mr. Hunzeker also wants to meet with the City on the parks issue. No joint meeting with the County Commission is scheduled anytime soon as Chair Amy Stein is unavailable for awhile. Jim Freeman has initiated a public records request to the county regarding funds spent on parks and recreation programs north of the river and taxes and impact fees that have been collected.

Informed Commission that survey cards were sent in the utility bills asking for citizen input on the future location of Palmetto Elementary School.

15. COMMISSIONERS' COMMENTS

Commissioner Varnadore

Inquired as to the status of Palmetto Elementary School. The Mayor reported that Dr. Dearing had a death in his family and has not gotten back to him on the school. Also inquired the status of the county agreement regarding Jackson Park. Mr. Lukowiak reported he has not heard back from the county. He said it could take another three months due to the county's legal review, but he thought it could be done before the end of 2007.

Commissioner Williams

Asked Chief Lowe about the new police dog. The Chief reported that the dog, Cantu, is being trained, doing well and should be out of training shortly. He will bring him into a Commission meeting to introduce him to Commissioners.

Commissioner Lancaster

Thanked Commissioner Whitmore for going to the County on the City's behalf.

Commissioner Ball

He informed Commission that as the new liaison to the Police Department, he's looking forward to learning more about PD. He thanked the officers for the difficult job they do.

Commissioner Cornwell

Regarding a report on multiple alarms requested from the Police Department, she informed Chief Lowe that she was not looking for the total number of alarms PD responded to, but those places where they have gone repeatedly; where people just won't fix their alarm systems to prevent so many false alarms.


Asked again that any special meetings begin at 5:00 p.m. or after due to the Commissioners various work schedules.

Commented on the new policy at the CRA. If they have something that cost \$2,500-\$10,000 they will get two bids and over \$10,000 they'll ask for three bids. She thinks that is a fine business decision. Also, if improvements are not maintained on homes that have received assistance, the owners will have to pay the CRA back.

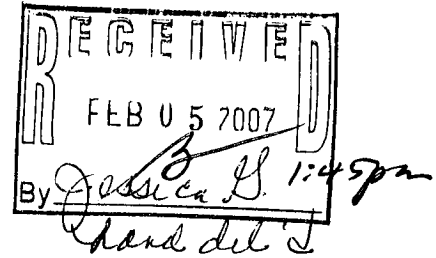
Informed Commission that the School Board is looking for a site for a Horizons Program, an alternative middle school for students who have been adjudicated and cannot attend regular school. If Palmetto Elementary School is moved to another site, there is a possibility that the alternative school would go there.

The meeting was adjourned at 9:10 p.m.

Minutes approved: February 26, 2007


James R. Freeman, City Clerk

John and Mary Lou Smart
2215 7th Street West, Palmetto, FL 34221



Subject: Request to complete dock construction

John and I own the property on 7th Street West about which a controversy has developed regarding continuation of our dock construction. We retired to Palmetto in 2003 and live in a home built by my parents in 1966. Although we are new residents of Florida, we have been coming here for 40 years.

We are here this evening to ask permission to continue construction of our dock. Following a complaint from a neighbor, our construction was placed on hold by DPW on October 20, 2006. Three years ago we began the dock application process and, once all the requirements were met and all the permits received, the surveying company of Leo Mills and Associates staked the dock line on September 26, 2006. They set PVC stakes in the river 34 feet from the south platted right of way line of 7th Street West. We understand this is 9 feet further than the 25 feet set back required. After consultation with several professionals including one builder, 2 surveyors and 2 attorneys, we think that setting the PVC constitutes the beginning of the dock construction and we would very much like to proceed.

When we began this project, there were people who signed a petition stating that the dock would impede their ability to play in the river, that is, to water ski, tube, and jet ski. As the law stands currently, that is a mute point as this area of the river is now a no-wake zone. You can see from an aerial photograph that the water is shallow and contains wide swaths of grass flats. In order to reach deep enough water to accommodate a boat lift, we need to go out 465 feet. Already there are a number of docks on the river that are 300 to 600 feet long because of the shallow shoreline.

A concern of one of our neighbors is that construction of the dock will impede access to the marked channel. That is false. In fact, its presence will protect the grass flats and the manatees from boaters who take a short cut out to the main river, often at high speeds. To our neighbors who are concerned that our dock will spoil their view of the river, we really don't know what to say except we will try our best to be considerate of their concern. Each of them has a dock of their own and they look out on other docks on the canal and on the river. Having this construction placed on hold has been a stressful experience. However, it has given us the opportunity to learn a lot about Palmetto's city government and to either meet or speak with many well-informed, helpful and pleasant individuals who live and work in the city.

John and Sharon Greene of Greene of Greene Marine Construction and their son Trevor helped us navigate the dock application process and this current situation. Trevor will be following in John's most capable footsteps in the marine construction business and we look forward to working with him. We thank them for everything they have done.